

BOARD OF PHYSICAL THERAPY MINUTES

DATE: May 14, 2010

TIME: 9:00 a.m. C.D.T

LOCATION: 227 French Landing Drive
Heritage Place, Metro Center
Ground Floor, Iris Conference Room
Nashville, TN 37243

MEMBERS PRESENT: Brigina Wilkerson, PT, Chair
Brandon Hollis, DPT
Michael L. Voight, PT
Minty R. Ballard, Consumer Member

MEMBER ABSENT: Lisa Fortner, PTA, Secretary

STAFF PRESENT: Marva Swann, Board Director
Karen Robinson, Board Administrator
Marc Guilford, Assistant General Counsel
Alison Cleaves, Deputy General Counsel
Juanita Stone, Disciplinary Coordinator
Ashley Carter, Deputy General Counsel

GUESTS: Cathy Hinton, Tennessee Physical Therapy Association
Mike Harkreader, Director Tennessee Professional Assistance Program

With a quorum being present, the meeting was called to order by Ms. Wilkerson at 9:27 a.m..

Contested Case Hearings

A. Michael C. Cameron, PT License #2736

Mr. Guilford presented the case of Michael Cameron, PT. Mr. Cameron was represented by attorney Dale Hubbard. Judge Ann Johnson presided. After presentation of the facts and thorough deliberation by the Board, Mr. Cameron was found to be in violation of the following sections of T.C.A. 63-13-312:

- (1) Practicing physical therapy in violation of the provisions of this chapter or any rule or written order adopted by the Board;

(4) Engaging in the performance of substandard care by a physical therapist due to ignorance, incompetence, or a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established;

(12) Failing to adhere to standards of ethics of the physical therapy profession

The Board voted to place Mr. Cameron's license on probation for two (2) years in addition to an assessment of two (2) Type A Civil penalties of one thousand dollars (\$1000.00) each for a total of two thousand dollars (2000.00) and the costs of this action not to exceed six thousand dollars (\$6000.00). He is also required to submit fourteen (14) hours of continuing education in addition to the required hours to maintain his physical therapy license.

ADJOURNMENT FOR LUNCH: 12:15 P.M.—RECOMMENCEMENT: 1:15 P.M.

B. Sharon Diane Miller, PTA License #2854

Mr. Guilford presented the case of Sharon Diane Miller, PTA. Ms. Miller was neither present nor represented by counsel. Judge Ann Johnson presided. In the absence of Ms. Miller, the Board voted to proceed in default. After presentation of the facts and thorough deliberation by the Board, Ms. Miller was found to be in violation of the following sections of T.C.A. §63-13-312:

(1) Practicing as a physical therapist or working as a physical therapist assistant when physical or mental abilities are impaired by the use of controlled substance, other habit-forming drugs, chemicals or alcohol.

(12) Failing to adhere to standards of ethics of the physical therapy profession.

The Board voted to suspend Ms. Miller's license until she has undergone an evaluation with the Tennessee Professional Assistance Program (TnPAP) and she was to do so within sixty (60) days of the effective date of this Order; after such time her license would be placed on probation to run concurrent with a TnPAP contract. Should the evaluation reveal no need for a contract, her license would be placed on probation for a period of no less than three (3) years. She was also assessed one (1) Type B civil penalty in the amount of five hundred dollars (\$500.00) and costs of this action not to exceed one thousand dollars (\$1000.00).

Office of General Counsel Report

Litigation Matters

There are eleven (11) open cases in the Office of General Counsel for the Board. Two (2) cases were contested case hearings to be held at this meeting, two (2) will be resolved by Consent Orders, if ratified, and seven (7) are continuing education violations to be resolved by Agreed Citations.

Policy Statement

The review of the policy statement regarding physical therapy scope of practice; Glucosometry Readings was deferred.

Letters of Reprimand

A. Stephanie Ann Anderson PTA License # 3974

Mr. Guilford presented a Letter of Reprimand on Stephanie Ann Anderson, PTA, pursuant to T.C.A. §63-13-312(9) based on discipline by the Physical Therapy Board of Kentucky. Mr. Hollis made a motion seconded by Dr. Voight to accept the Letter of Reprimand. The motion carried.

B. Kathleen M. Galloway, PT License #7593

Mr. Guilford presented a Letter of Reprimand on Kathleen M. Galloway, PT, pursuant to T.C.A. §63-13-312(9) based on discipline by the Physical Therapy Board of Kentucky. Mr. Hollis made a motion seconded by Ms. Ballard to accept the Letter of Reprimand. Dr. Voight recused himself. The motion carried.

Suspension of Licensees Who Default on Student Loans

Alison Cleaves, Deputy General Counsel, proposed that the Board, pursuant to T.C.A., §63-1-141 authorize HRB to suspend a license after notification from the Tennessee Assistance Corporation ("TSAC") that the licensee has defaulted on a student loan. After discussion, Ms. Ballard made a motion seconded by Mr. Hollis to approve. The motion carried.

Tennessee Professional Assistance Program (TnPAP) Report

Mike Harkreader, Director, of the Tennessee Professional Assistance Program (TnPAP), presented the statistics for the period of July 1, 2009 thru March 31, 2010. One (1) PT and two (2) PTA's signed monitoring agreements. One (1) PT evaluation recommendation was pending. There were two (2) PT referrals during this period; one (1) was referred by the Board and one (1) was referred from another source for treatment. Two (2) PT's were referred due to history of arrest/illegal drug use/DUI. Two PT's were discharged after successful completion of their monitoring agreement and one (1) PT was discharged for refusal of services and was reported to the Dept of Health.

Contract

The Board voted to approve amendments (attached) to the TnPAP contract.

Investigation and Disciplinary Reports

There were seventeen (17) PT complaints, five (5) of which were reopened or readjusted. Ten (10) were closed; two (2) with no action, one (1) with a letter of warning, and seven (7) were referred to the Office of General Counsel, leaving seven (7) currently open complaints.

There were seven (7) PTA complaints, two (2) of which were reopened or readjusted. Four (4) were closed; one (1) with no action and three (3) with a letter of warning, leaving three (3) current open complaints. There are six (6) PT's and five (5) PTA's currently being monitored after prior Board discipline.

Approval of Minutes

Mr. Hollis made a motion seconded by Dr. Voight to approve the minutes of the February 10, 2010 board meeting as presented. The motion carried.

Approval of Attendees to Annual FSBPT Meeting

The Annual Meeting and Delegate Assembly of the Federation of State Boards of Physical Therapy (FSBPT) will be held on 10/14/10 through 10/17/10 in Denver, Colorado. Ms. Ballard made a motion seconded by Mr. Hollis to approve Ms. Fortner as delegate and Dr. Voight as alternate delegate should Ms. Fortner be unable to attend and to send Ms. Swann as board administrator. The motion carried.

Financial Report

The Board had a total revenue of \$198,549.53 for FY2009 with expenditures of \$261,545.35 leaving a deficit of \$62,995.82. Revenue collections for FY2010 were \$87,468.25. Direct expenditures for FY2010 were not available at the time of the meeting, The report will be updated at the next meeting, at which time the Board will discuss a fee increase to maintain financial solvency.

Remediation

Dr. Voight made a motion that was seconded by Mr. Hollis to approve the remediation plans reviewed by Board consultant, Alan Meade. The plans were for the following applicants:

MELLISSA DUNLAP, PTA
RASHIDA SALLIE, PTA
TARSHA BLAYLOCK, PTA
MEENA PALANISAMY, PTA
ASHLEY PEARSON, PTA
SHEILA WHITEHORN, PTA
MARIO BISHOP, PTA

DARREN HENDERSON, PTA
BRANDY SAVAGE, PTA
GLORIA WILLIAMSON, PTA
MICHELLE COMPTON, PTA
TAAKA WILLIAMS, PT
SH'VOYNE CLAYBON, PT

The motion carried.

Applicant File Review

- A. **Carrie Gordon, PTA**—Ms. Gordon appeared before the Board due to a 2003 conviction. After interview and discussion by the Board, Mr. Hollis made a motion seconded by Dr. Voight to approve Ms. Gordon's application for licensure. The motion carried.

- B. **Marie Deller, PT**—Ms. Deller ‘s application was presented to the Board. She is a foreign trained physical therapist who is seeking a license by reciprocity as a physical therapist from the State of Maryland and the District of Columbia. After review, Mr. Hollis made a motion seconded by Ms. Ballard to approve Ms. Deller for a 480 hour supervised clinical practice. The motion carried.
- C. **Concepcion Bartolome, PT**—Ms. Bartolome’s application was presented to the Board. She is a foreign trained physical therapist After review, Ms. Ballard made a motion seconded by Mr. Hollis to approve Ms. Bartolome to take the NPTE in addition to a 480 hour supervised clinical practice upon her successful completion of the exam.

Correspondence

Tennessee Nurses Association—Sharon Adkins, MSN, RN, Executive Director of the Tennessee Nurses Association submitted a letter requesting clarification of the Board’s policy regarding patient referrals. For clarity, the Board changed the reference in its policy from “nurse practitioner” to the more inclusive “advanced practice nurse” (policy attached).

Ratification of Initial Determinations

A motion was made by Dr. Voight and seconded by Mr. Hollis to approve the following lists of initial and reinstatement applications for licensure. The motion carried.

PHYSICAL THERAPISTS

NEW LICENSES

ARGIE LORRAINE ALLEN
JESSICA MARIE BARRETT
LAURA BETH BRATTON
JESSICA W BREWER
VIRGINIA LIPSCOMB BROCK
MARY ANN BRYAN
JULIE ANN BULLOCK
ANNE KATHERINE CAMPBELL
TAMARA ANN CAMPBELL
NICOLE MELISSA CARTER
KELLY ANN CHAFFIN
PHILLINA CHAN
MEGAN OLIVIA CHAPMAN
STEPHANIE MARIE CLINE
CHRISTI ELIZABETH DEYTON
KINJU P DUDHIA
KRISTEN MARIE ELLERS
DEBORAH ANNE ELLISON
BRITTANY ELLEN ENDRES
KELLY LYNN FRENCH
KEVIN HOWARD HICKS
RHONDA LYN HICKS
BRITTANY HOFFER

STEPHANIE CAYCE JETER
BRIAN DONALD KOEPPEN
RYAN PATRICK LEEDY
TANYA C LIBBY
MARY BETH LOGGAINS
JENNIFER KRISTINE LOTTER
BETHANY DIANE LOWRY
AUTUMN NICOLE MASTERS
RAVEN ANNELLE MCMURRAY
MARIANA CURRY MOORE
DEEPAK NANDY
RODNEY REX NASH III
SHARON E OXENTENKO
NILESHKUMAR RAMESHBHAI PATEL
MARCY LYNN PRICE
PAUL RYAN CO QUE-SANCHEZ
BILLY JOE RAINES
STEVEN MICHAEL REAGAN
ELIZABETH ANNE REDDY-CARMODY
NICOLE WEITHAAS SCOTT
PATRICK HAROLD SNEED
HEIDI LYN SNOOK
BRANDON ANTHONY STAPANOWICH

Physical Therapy Minutes

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BRIAN MICHAEL STREET
ERIC JON TARSİ
MARISSA LIZETTE TAYLOR
CHERIE LIM TUNG
GENE ALMA WALKER

KIM CARTER WASHUTA
BEAU BRUCE WHITT
MISTY DAWN WILKERSON
NANCY WAN YOUNG

REINSTATEMENTS

BETH K HALBACH
THERESA MARIE HUFF
SHEETAL YOGESH JHAVERI
THOMAS A JOSEPH
MARELI KLOPPER
SHERRI JAYE LEA
ERIN MACKAY MADDOX

GUIDANO NAPOLI
MICHELLE T NESIN
BRUCE MICHAEL NICOARA
KEVIN E TAYLOR
MARY H THORSTAD
AMANDA H WEMYSS

PHYSICAL THERAPIST ASSISTANTS

NEW LICENSES

MICHEAL DIJON EDWARDS
NIKKI LYN FLAMING
MICHELLE KATHLEEN GRISSINGER
RENEE HONGJIE GUO
SHERRY AN HAWSON
DIANNA ELIZABETH JARAMILLO
KRISTIE NICHOLE KESSLER
RENEE MARY KRABBE
MILLARY RAYE LOMAS
DAWN MARIE MILLER

JOHNNY RICHARD MURPHY, II
JENNIFER RENEE NEWTON
MARSHA N PARKS
LAQUONNA JACINTA PLESS
RASHIDA VENICE SALLIE
VANESSA DAWN SHELBY
AIMEE REBECCA THOMAS
HEATHER LYNN TRACY
JENNIFER MARIE WARREN

REINSTATEMENTS

MELISSA ANNE ASHSHAKUR
SUE ELLEN CLOSE
CARMEN DANIELLE COOPER

JENNIFER JONES DEVAUL
KERRY L RILEY

Administrator's Report

Licensure Statistics for February 2010 thru April 2010:

- 4196 Physical Therapists
- 2577 Physical Therapist Assistants

STATISTICAL REPORTS

Physical Therapists	Feb 10	MAR 10	Apr 10
Licensed	33	20	9
Provisional	1	1	0
Renewals Mailed	154	141	157

Physical Therapy Minutes
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Physical Therapist Assistants	Feb 10	Mar 10	Apr 10
Licensed	6	8	8
Provisional	0	0	0
Renewals Mailed	93	102	86

Board Members

All positions are currently filled.

Election of Officers

The election of officers was deferred to the next meeting

Adjournment

There being no further business, the meeting was adjourned at 7:30 p.m.

These minutes were ratified at the August 20, 2010 meeting.

Physical Therapy

A.1. Language as currently in the grant contract:

- (10) A policy and procedure relative to personnel including: training and development activities which are appropriate in assisting the staff in meeting the needs of the clients being served must be provided for each staff including STD/HIV education and evidenced by documentation in the program records; training and development activities which are appropriate in assisting volunteers (if used by the program) in implementing their assigned duties must be provided for each volunteer and must be evidenced by documentation in the program records; and direct services staff member must be competent persons aged eighteen or older.

Recommended replacement language:

- (10) A policy and procedures relative to personnel including:
- (i) Training and development activities which are appropriate in assisting volunteers (if used in the program) in implementing their assigned duties must be provided for each volunteer. The provisions of such activities must be evidenced by documentation in the program's records; and
 - (ii) Direct-services staff members must be competent persons aged eighteen (18) years of age or older.

Justification: Requiring staff to obtain STD/HIV education is an unnecessary expense since TnPAP does not make any inquiries to clients as to if this is an issue with them. Staff to client face-to-face contact is limited.

Language as currently in the grant contract:

- (14) In addition to the written policy and procedures manual a separate education services program manual must be maintained.

Recommendation: Delete (14) in its entirety.

Justification: In lieu of personal presentations to large groups TnPAP is now utilizing online learning.

Language as currently in the grant:

- (15) (b) Informing clients of rights – Acknowledgement. The director or designee of the program shall orally inform a program participant who is admitted for assistance under the provisions of this Grant, outlining in simple, non-technical language all rights accorded to clients by the provisions of this Grant. Each such statement shall also be provided to the participant in writing at the time of admittance. The participant shall sign on the line provided for is/her signature, acknowledging that (s)he has been verbally informed of his/her rights. The participant's signature shall be acknowledged by at least one witness.

Recommended replacement language:

- (15) (b) Informing clients of rights – Acknowledgement. Each program participant who is admitted for assistance under the provisions of this Grant, shall be notified, in writing, in simple, non-technical language all rights accorded to him/her by the provisions of this Grant. The participant shall sign on the line provided for his/her signature, acknowledging that (s)he has been informed of his/her rights.

Justification: Participants are no longer required to travel to Nashville for an orientation prior to signing the monitoring agreement.

**POLICY STATEMENT
TENNESSEE BOARD OF PHYSICAL THERAPY**

PATIENT REFERRALS FOR PHYSICAL THERAPY

Tennessee Code Annotated Section 63-6-204(a) defines what is considered to be included in the practice of medicine and then provides exceptions in subsection (b) to allow the health care professional to perform medical services that would otherwise require a license to practice medicine, as follows:

(b) Nothing in this chapter shall be so construed as to prohibit service rendered by a physician assistant, registered nurse or a licensed practical nurse if such service is rendered under the supervision, control and responsibility of a licensed physician.

The relationship between supervising physicians and physician assistants, orthopedic physician assistants, and advanced practice nurses who are registered nurses who have been certified by the Board of Nursing pursuant to Tennessee Code Annotated § 63-7-126 and issued a certificate to practice as an advanced practice nurse by the Board of Nursing, is defined as follows:

The range of services which may be provided by a physician assistant [orthopedic physician assistant] shall be set forth in a written protocol, jointly developed by the supervising physician and the physician assistant [orthopedic physician assistant]... [T.C.A. §§ 63-19-106(a)(2) and 63-19-203 and 204]

A physician assistant [orthopedic physician assistant] may perform only those tasks which are within the physician assistant's range of skill and competence, which are within the usual scope of practice of the supervising physician, and which are consistent with the protection of the health and well-being of the patients. [T.C.A. §§ 63-19-106(a)(3) and 63-19-203 and 204]

A physician assistant shall function only under the control and responsibility of a licensed physician. The supervising physician has complete and absolute authority over any action of the physician assistant...[T.C.A. § 63-19-106(b) and 63-19-203]

Additionally, Rules 0880-2-.18 (3), (5) and (6) provide as follows:

(3) A supervising physician and/or substitute supervising physician shall have experience and/or expertise in the same area of medicine as the physician assistant.

(5) Protocols are required and:

- (a) shall be jointly developed and approved by the supervising physician and physician assistant;*
- (b) shall outline and cover the applicable standard of care;...*

(6) The supervising physician shall be responsible for ensuring compliance with the applicable standard of care under (5). Additionally, the supervising physician shall develop protocols in collaboration and referral. [emphasis added]

Likewise, rules 0880-6-.02 (3), (5) and (6) provide that:

(3) A supervising physician and/or substitute supervising physician shall have experience and/or expertise in the same area of medicine as the certified nurse practitioner.

(5) Protocols are required and:

- (a) shall be jointly developed and approved by the supervising physician and nurse practitioner;***
- (b) shall outline and cover the applicable standard of care;...***

(6) The supervising physician shall be responsible for ensuring compliance with the applicable standard of care under (5). Additionally, the supervising physician shall develop clinical guidelines in collaboration with the certified nurse practitioner to include a method for documenting consultation and referral. [emphasis added]

The Tennessee Board of Physical Therapy, regarding patient referrals for physical therapy, states the following as its policy:

Jointly developed protocols may include referral of patients for physical therapy if referrals to physical therapy are within the physician assistant's, orthopedic physician assistant's, or advanced practice nurse's range of skill and competence, and such referrals are within the usual scope of practice of the supervising physician. Consequently, when referral for physical therapy is included in protocols, those referrals, if made by a physician assistant, orthopedic physician assistant, or, advanced practice nurse, are considered referrals by supervising physicians, for the purposes contemplated by Tennessee Code Annotated, Sections 63-13-109 and 303 that require, in pertinent part, that *"The practice of physical therapy shall be under the written or oral referral of a licensed doctor of medicine..... or osteopathy.. .."*

Adopted by the Tennessee Committee of Physical Therapy on February 2, 2001.

Amended and ratified by the Board of Physical Therapy on November 14, 2008.

Amended and ratified by the Board of Physical Therapy on May 14, 2010.